IN THE HIGH COURT OF JUDICATURE AT BOBBY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.4230 of 2006

(For clarification)

In

CIVIL APPLICATION NO.1391 of 2006

IN

FIRST APPEAL NO. 512 of 2006

IN

Suit No.2592 of 2002

Mrs. Pallavi Chandavarkar ... Applicant

vs

1. Shri Mohan Anand Chandavarkar

and Anr. ... Respondents

Shri Sugandh B. Deshmukh with Anil V.Anturkar for Applicant

Shri Nihal Ghag i/b Ashish S. Naik for Respondent nos. 1 and 2

CORAM:S.R.SATHE,J.

DATED:17th Oct.2006

P.C.:-

1. The Applicant has moved this application seeking clarification of the word "outgoing" mentioned in para 23(iv) of the order passed by this Court on 16-8-2006.

2. The learned Advocate for the applicant submitted that as per order dated 16-8-2006 this Court had directed the present applicant to pay the outgoings of the suit flat. In view of the said order, now, the Respondents are asking the applicant to pay repair charges of Rs.1 lac. He also submitted that as per the order dated 16-8-2006 the applicant is not asked to pay repair charges, the same is not covered under the word "outgoings". He further submitted that by the word "outgoing" only regular expenditure in connection with the suit flat is contemplated.

3. The learned Advocate for the Respondents pointed out to me that as per Halsbury’s Laws of England "outgoing" means :

> Meaning of outgoings : The term outgoings is of very wide import (t), and includes not merely rates (u), taxes (a), repairs, and the ordinary expenses of cultivating or managing the property (b), but also expenses, though of a capital nature, of works executed by local authorities under their sanitary and other powers which are recoverable from the owner, and are also, in general, charged on the property (c).

4. He also submitted that as per Aiyar Judicial Law Dictionary, 9th Edition, the word "outgoing" means :

> "Outgoings - The term "outgoings" is of very wide import and includes not merely rates, taxes, repairs and the ordinary expenses of cultivating or managing property, but also expenses, thought of a capital nature, of works executed by local authorities under their sanitary and other powers which are recoverable from the owner, and are also, in general, charged on the property Halsubury's Laws of England, 3rd ed. vol. 34 p.260"

5. It is needless to say that plain simple meaning of the word "outgoings" as given in Oxford Dictionary is "once regular expenditure". Firstly, it must be noted that this word "outgoings" has been mentioned by both the parties in their joint minutes of the order dated 9-7-2004, filed in Appeal from Order NO.637 of 2004 in Notice of Motion NO.1908 of 2002, wherein it is specifically mentioned "The appellant undertakes to this Hon'ble Court that she will regularly pay electricity bills and other outgoings in respect of the said flat starting from 1-7-2004 till the hearing and final disposal of the said suit". This clearly indicates that both the parties are in fact fully aware as to what the word outgoing means and what was contemplated by both of them by using the said word. However, now the Respondent is contending that the applicant will have to pay the repair charges of Rs.1 lac. It is submitted

that the said charges are in respect of compound wall of the society. It must be mentioned that such expenditure of major repairs which is for the benefit of the flat is not at all contemplated by the word "outgoing" in connection with the suit flat. It only means regular expenditure like electric bill, telephone bill, society monthly maintenance bill and annual Municipal taxes. While construing the meaning of word "outgoings" one has to take into consideration all the observations made in the order dated 16-8-2006 and one must also bear in mind the circumstances under which the said order is passed and the object of passing such order. Having regard to these facts, it is very clear that expenditure incurred with regard to the renovation of the flat or major repairs of the flat or society compound etc. are not contemplated by the word "outgoings" .

6. Under the circumstances of the case, such expenditure is not contemplated by the word "outgoings" mentioned in order dated 16-8-2006.

7. Civil Application is disposed of accordingly.

(S.R.SATHE,J.)